



Water Resources Act 1991

1991 CHAPTER 57

PART IV

FLOOD DEFENCE

Main river functions

107 Main river functions under the Land Drainage Act 1991.

- (1) This section has effect for conferring functions in relation to main rivers on the [F¹appropriate agency] which are functions of drainage boards in relation to other watercourses.
- (2) Notwithstanding subsection (3) of section 21 of the Land Drainage Act 1991 (power to secure compliance with drainage obligations), the powers of the [F¹appropriate agency] in relation to a main river shall, by virtue of this section, include the powers which under that section are exercisable otherwise than in relation to a main river by the drainage board concerned; and the provisions of that section shall have effect accordingly.
- (3) The powers of the [F¹appropriate agency] in relation to a main river shall, by virtue of this section, include the powers which under section 25 of the Land Drainage Act 1991 (powers for securing the maintenance of flow of watercourses) are exercisable in relation to an ordinary watercourse by the drainage board concerned; and the provisions of that section and section 27 of that Act shall have effect accordingly.
- (4) Sections 33 and 34 of the Land Drainage Act 1991 (commutation of obligations) shall have effect where—
 - (a) any person is under an obligation imposed on him by reason of tenure, custom, prescription or otherwise to do any work in connection with the drainage of land (whether by way of repairing banks or walls, maintaining watercourses or otherwise); and
 - (b) that work is in connection with a main river,

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as they have effect in relation to an obligation to do work otherwise than in connection with a main river but as if the [F¹appropriate agency] were under a duty to take steps to commute the obligation and the references in those sections to the drainage board for the internal drainage district where the works fall to be done were omitted.

- (5) In this section—
- (a) references to the exercise of a power in relation to a main river shall include a reference to its exercise in connection with a main river or in relation to the banks of such a river or any drainage works in connection with such a river; and
 - (b) expressions used both in this section and in a provision applied by this section have the same meanings in this section as in that provision.
- (6) The functions of the [F¹appropriate agency] by virtue of this section are in addition to the functions of the [F¹appropriate agency] which by virtue of the provisions of the ^{M1}Land Drainage Act 1991 are exercisable by the [F¹appropriate agency] concurrently with an internal drainage board.

Textual Amendments

F1 Words in ss. 105-107 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 274\(b\)](#) (with Sch. 7)

Marginal Citations

M1 1991 c. 59.

108 Schemes for transfer to the [F²appropriate agency] of functions in relation to main river.

- (1) The [F²appropriate agency] may at any time prepare and submit to either of the Ministers for confirmation a scheme making provision for the transfer to the [F²appropriate agency] from any drainage body of—
 - (a) all rights, powers, duties, obligations and liabilities (including liabilities incurred in connection with works) over or in connection with a main river; and
 - (b) any property held by the drainage body for the purpose of, or in connection with, any functions so transferred;
 and the [F²appropriate agency] shall prepare such a scheme and submit it to one of the Ministers if it is directed to do so by that Minister.
- (2) A scheme prepared and submitted under subsection (1) above may make provisions for any matter supplemental to or consequential on the transfers for which the scheme provides.
- (3) The Minister to whom a scheme is submitted under this section may by order made by statutory instrument confirm that scheme; and Schedule 14 to this Act shall have effect with respect to the procedure to be followed in connection with the making of such an order and with respect to challenges to such orders.
- (4) An order under this section may contain provisions with respect to the persons by whom all or any of the expenses incurred by the Ministers or other persons in

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connection with the making or confirmation of the order, or with the making of the scheme confirmed by the order, are to be borne.

- (5) Where, under a scheme made by the [F²appropriate agency] under this section, liabilities incurred in connection with drainage works are transferred to the [F²appropriate agency] from a local authority, the [F²appropriate agency] may require the local authority to make contributions to the [F²appropriate agency] towards the discharge of the liabilities.
- (6) If the amount to be paid by a local authority by way of contributions required under subsection (5) above is not agreed between the [F²appropriate agency] and the local authority, it shall be referred to the arbitration of a single arbitrator appointed—
- (a) by agreement between them; or
 - (b) in default of agreement, by the Ministers.
- (7) The relevant Minister shall by regulations provide for the payment, subject to such exceptions or conditions as may be specified in the regulations, of compensation by the [F²appropriate agency] to any officer or other employee of a drainage body who suffers loss of employment or loss or diminution of emoluments which is attributable to a scheme under this section or anything done in pursuance of such a scheme.
- (8) Regulations under subsection (7) above may include provision—
- (a) as to the manner in which and the persons to whom any claim for compensation by virtue of the regulations is to be made; and
 - (b) for the determination of all questions arising under the regulations.
- (9) In this section—
- “drainage body” means an internal drainage board or any other body having power to make or maintain works for the drainage of land;
 - “the relevant Minister”—
 - (a) in relation to employees of a drainage body wholly in Wales, means the Secretary of State;
 - (b) in relation to employees of a drainage body partly in Wales, means the Ministers; and
 - (c) in any other case, means the Minister.

Textual Amendments

- F2** Words in s. 108 and heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 274(b)** (with Sch. 7)

F³109 Structures in, over or under a main river.

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Textual Amendments

- F3** S. 109 repealed (6.4.2016) by [The Environmental Permitting \(England and Wales\) \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/475\)](#), regs. 1(2), **30** (with regs. 31-33)

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F⁴110 Applications for consents and approvals under section 109.

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Textual Amendments

- F4** S. 110 repealed (6.4.2016) by [The Environmental Permitting \(England and Wales\) \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/475\)](#), regs. 1(2), **30** (with regs. 31-34)

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